THE UNITED STATES OF AMERICA, PETITIONER

vs.

HARRY MURDOCK

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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1 [Caption omitted.]

2 In United States District Court for the Southern District of Illinois

Southern Division

No. 1680. Indictment. Vio. sec. 1114 (a) of the Revenue Act of 1926 and sec. 146 (a) the rev. act 1928.

UNITED STATES OF AMERICA

vs.

HARRY MURDOCK

Indictment filed January 23, 1930

Be it remembered that heretofore, to wit, on the 23d day of January, in the year of our Lord one thousand nine hundred and thirty, that being one of the days of the January term, A.D. 1930, of the District Court of the United States for the Southern Division of the Southern District of Illinois, the grand jurors of the United States of America, chosen, selected, and sworn, within and for the Southern Division of the Southern District of Illinois, came into open court and presented an indictment against one Harry Murdock for "Violation of section 1114 (a) of the Revenue Act of 1926 and section 146 (a) of the Revenue Act of 1928", which said indictment was signed by the district attorney and indorsed by the foreman of said grand jury as a true bill, and was and is in the words and figures following, to wit:

[Title omitted.]

SOUTHERN DISTRICT OF ILLINOIS,

Southern Division, ss:

The grand jurors of the United States of America, impaneled, sworn, and charged in the District Court of the
3 United States of America, within and for the said Southern Division of the Southern District aforesaid, at the term aforesaid, of the court aforesaid, in the year of our Lord nineteen hundred thirty, and inquiring for said Southern Division of the Southern District aforesaid, upon their oath present that Harry Murdock, late of the city of Nameoki, county of Madison, State of Illinois, hereinafter sometimes called the defendant, whose true full name is unknown to the grand jurors, except as aforesaid, throughout the calendar year 1927 was a citizen of the United States, who was in the real estate and vending machine business, and whose residence and principal place of business were in the city of Nameoki, county of Madison, State of Illinois, and within the Eighth Internal Revenue Collection District of Illinois, within said Division of

said judicial district aforesaid, and within the jurisdiction of this honorable court that on, to wit, March 15, 1909, said defendant made and filed his individual income tax return for the calendar year 1907 with the collector of internal revenue for the said Eighth Internal Revenue Collection District of Illinois, which said return was signed and sworn to by the said defendant, showing in schedule A (income from business or profession), of said return no total receipts from business or profession, the sum of, to wit, twenty four thousand ninety one dollars and eighty two cents ($24,091.80) and showing no total business deductions in said schedule A of said return, the sum of, to wit, fifteen thousand eight hundred eighty two dollars and forty cents ($15,882.40), and showing the net income from business or profession to be the sum of, to wit, eight thousand two hundred twenty nine dollars and forty two cents ($8,209.40), which said sum of, to wit, eight thousand two hundred twenty nine dollars and forty two cents ($8,209.40), was shown by said defendant on the face of his said return for the said calendar year 1907, under the caption "Income" and under the specific item "Income from business or profession", that the said defendant in making and filing his said return for the calendar year 1907, as aforesaid, understated his total receipts from business or profession for said calendar year 1907 by the sum of, to wit, twelve thousand dollars ($12,000.00), alleged by the defendant to have been moneys paid out by said defendant during said calendar year 1907 to a person or persons unknown to said grand jurors; that

afterwards, on, to wit, December 21, 1909, in pursuance of a written designation of Robert H Lucas, Commissioner of Internal Revenue for the United States of America, giving him authority so to do, John H Kirk, United States internal revenue agent in charge at Springfield, Illinois, issued a written summons to said defendant, Harry Murdock, and said written summons was regularly served personally on said defendant on, to wit, December 27, 1909, requiring him, the said defendant, to appear before the said United States internal revenue agent in charge at his office in room 307½ East Monroe Street at Springfield, aforesaid, on December 30, 1909, to give testimony and supply information for and to said Commissioner concerning said payment of said moneys in the sum of, to wit, twelve thousand dollars ($12,000.00), by said defendant, and concerning the name and address or names and addresses of the recipient or recipients of such payment, for the purpose of the computation, assessment, and collection of income taxes imposed upon and due to the United States from such other person or persons by an act of Congress, approved February 26, 1909, entitled "An act to reduce and equalize taxation, to provide revenue, and for other purposes", which said act of Congress is known as the Revenue Act of 1909; that on, to wit, January 8, 1910, the said defendant Harry Murdock, did appear before said United States internal revenue agent in charge at the city of Edwardsville in the State of Illinois, in pursuance of said summons,

but then and there refused to give testimony and supply information that, because he had full knowledge and information concerning said matter for said payment of said sum of, to wit, twelve thousand dollars ($12,000.00), said defendant was under a duty to appear before said John H. Rich and give testimony and supply information concerning same, which said testimony and information to be material for the purpose of the computation, assessment, and collection of income taxes, and that said defendant, notwithstanding his said duty, and although he then and there was required, under the provisions of said act of Congress, so to comply with said summons and give such testimony and information to said John H. Rich, unlawfully did wilfully fail to give such testimony and supply such information concerning said matter of said payment of said sum of, to wit, twelve thousand dollars ($12,000.00), to wit, on said January 6, 1930, in said Southern Division of said Southern District of Illinois, and in said Eighth Internal Revenue Collection District of Illinois, or at any other time or place against the peace and dignity of the United States, and contrary to the form of the statute of the same in such case made and provided.

Second Count

And the grand jurors aforesaid, upon their oath aforesaid, do further present that the said defendant, Harry Marchant, late of the city of Naperville, county of Madison, State of Illinois, hereinafter sometimes called the defendant, whose true full name is unknown to the grand jurors, except as aforesaid, throughout the calendar year 1929 was a citizen of the United States who was in the real estate and vending machine business, and whose residence and principal place of business were in the city of Naperville, county of Madison, State of Illinois, and within the Eighth Internal Revenue Collection District of Illinois, within said division, of said judicial district, aforesaid, and within the jurisdiction of this honorable court; that on, to wit, March 15, 1929, said defendant made and filed his individual income tax return for the calendar year 1928 with the collector of internal revenue for the said Eighth Internal Revenue Collection District of Illinois, which said return was signed and sworn to by the said defendant, showing in schedule A (income from business or profession) of said return, as total receipts from business or profession the sum of, to wit, $[illegible], and showing as business deductions in said schedule A of said return the following:

Salaries, exclusive of "labor"	$[illegible]
Interest	2,000.00
Depreciation, obsolescence, and depletion	5,000.00
Rent, repairs, and other expenses	7,740.73

and showing as total business deductions in said schedule A of said return, the sum of, to wit, $43,285.87, and showing the net income